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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/502,475

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Valerio Bramati

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07/11/2006

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EXAMINER

CLARDY, S

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/502,475	Applicant(s) BRAMATI ET AL.	
	Examiner S. Mark Clardy	Art Unit 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/23/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claims 16-30 are pending in this application which has been filed under 35 USC 371 as the national stage of international application PCT/EP03/00825, filed January 28, 2003, which claims priority to US application 10/059,708, filed January 29, 2002. The instant application differs from the earlier '708 application in having the alkyl(poly)glycoside component (iv, below).

Applicants' claims are drawn to aqueous compositions comprising:

- a) aminophosphate or aminophosphonate "type" herbicide salt (i.e., glyphosate); claim 18: 80-510 g/L ae
- b) betaine surfactant (alkyl or alkylamidoalkyl betaines), identified as the principle (not "principal") surfactant; claim 20: 20 – 180 g/L
- c) at least one other additive::
 - i) amines or etheramines with at least one C₂₋₂₄ group (optionally polyalkoxylated), at 0-120 g/L (claim 22)
 - ii) phosphate mono- or di-esters (optionally polyalkoxylated); claim 24: 0-120 g/L
 - iii) mineral acid salt (i.e., alkali metal, alkaline earth metal, alkyl- or alkanol-ammonium, Fe, Zn, Mn salts); claim 26: 0-200 g/l.
 - iv) alkylmonoglycosides or alkylpolyglycosides; claim 28: 0-150 g/L.

Examples are provided for the inventive compositions; no comparative examples have been provided.

Claim 16 is objected to because of the following informalities: the use of the term "type" may be seen by those unfamiliar with the art as an unacceptable term which renders the claim indefinite. The phrase "herbicide of the aminophosphate or aminophosphonate class" is acceptable. Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Chen et al (US 5,341,932), Hasebe et al (US 5,863,863), and Sato et al (US 5,998,332).

Chen et al teach aqueous formulations comprising agrochemicals such as herbicides including glufosinate (columns 7-8), electrolytes such as inorganic salts (columns 5-6), and other additives such as surfactants, including betaine derivatives (column 6, lines 39-59), solvents, dispersants, etc. (col 3, lines 37-68+).

Hasebe et al teach liquid enhancer compositions for amino acid herbicides such as glyphosate, bialaphos, and glufosinate (col 5, lines 23-28) comprising a tertiary amine such as a betaine (col 3, lines 58-62) and an oxalic acid compound (abstract). Other components may include surfactants (columns 4-5) and inorganic salts (col 6, lines 12-16). Table 1 lists several compositions comprising polyoxyethylated fatty amine/ammonium compounds.

Sato et al teach high concentration (100 to 600 g ae/L, col 6, lines 64-66) glyphosate compositions comprising activity enhancing surfactants (columns 8-10) such as trialkylbetaines (col 10, lines 7-12) and alkyl glycosides/polyglycosides (col 8, lines 23-24, 48-50), at amounts ranging from 2 to 25% by weight (col 11, lines 1-2), with optional additives such as inorganic salts (col 11, lines 8-10: ammonium sulfate, potassium sulfate, potassium chloride, or sodium sulfate), and additional active agents such as bialaphos and glufosinate (lines 44-56).

One of ordinary skill in the art would be motivated to combine these references because they disclose components which are useful for formulating and enhancing the activity of aqueous glyphosate or aminophosphate herbicide compositions.

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Thus it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have combined applicants' components into a single formulation because each of the ingredients is known to be useful in aqueous herbicidal compositions comprising aminophosphate herbicides such as glyphosate or glufosinate. It is conventional in the art to employ surfactants at a lower concentration than active agents, as taught in Sato et al.

Determination of appropriate concentrations is within the skill level of the ordinary artisan.

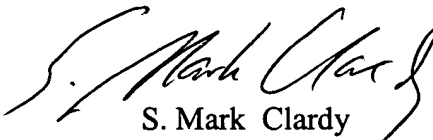
No unobvious or unexpected results are noted; no claim is allowed.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mark Clardy whose telephone number is 571-272-0611. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


S. Mark Clardy
Primary Examiner
Art Unit 1617

June 21, 2006